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**To:** Purdy, Donna (mimo@mimotheclown.com)  
**Subject:** U.S. TRADEMARK APPLICATION NO. 77437275 - THE  
IMAGINATION SHOP - N/A  
**Sent:** 7/16/2009 11:06:53 AM  
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**Attachments:** Attachment - 1  
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Attachment - 8  
Attachment - 9

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/437275

**MARK:** THE IMAGINATION SHOP

**CORRESPONDENT ADDRESS:**  
PURDY, DONNA  
7254 BUTTERBALL WAY  
SACRAMENTO, CA 95842-3770

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Purdy, Donna

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
mimo@mimotheclown.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 7/16/2009

Applicant is requesting reconsideration of a final refusal issued/mailed 12/12/2008.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration *in part* and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

The request for reconsideration is denied in part with respect to the Section 2(d) refusal with U.S. Registration No. 2219696 (IMAGINATION WORKSHOP) for International Class 041.

The examining attorney withdraws the Section 2(d) refusals with respect to U.S. Registration Nos. 2552614, 2559228, and 2964540.

In the Request for Reconsideration, applicant requests reconsideration of the Trademark Act Section 2 (d) refusals with U.S. Registration Nos. 2219696, 2552614, 2559228, and 2964540. Applicant has limited the identification of goods and services. Applicant argues that the word SHOPPE and WORKSHOP are differing words that create dissimilar commercial impressions. Next, applicant provides evidence and argues that the word IMAGINATION is weak and therefore the terms SHOPPE and WORKSHOP are "sufficient to distinguish among the marks at issue." Further, applicant does not provide any evidence to show that applicant's and the registrant's services are dissimilar.

Applicant has provided evidence showing third-party marks with the word IMAGINATION in marks. However, all of the third-party registrations contain other distinctive matter besides IMAGINATION, whereas the applicant's mark and the registrant's mark contain the words SHOPPE and WORKSHOP which are highly similar. First, the first word in both marks is identical – IMAGINATION. Consumers are generally more inclined to focus on the first word, prefix or syllable in any trademark or service mark. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); see also *Mattel Inc. v. Funline Merch. Co.*, 81 USPQ2d 1372, 1374-75 (TTAB 2006); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making purchasing decisions). Second, the second word, SHOPPE and WORKSHOP in the respective marks are highly similar in meaning. In addition to the definitions provided in the initial Office action, a SHOPPE is defined as "a schoolroom fitted with machinery and tools for instruction in industrial arts" and "a home *workshop*." Next, the word WORKSHOP is defined as "an educational seminar or series of meetings emphasizing interaction and exchange of information among a usually small number of participants." Please see the attached definition from *The American Heritage Dictionary of the English Language*, Fourth Edition, 2000. Therefore, both terms are related to the educational activities and convey similar meanings. Overall, the marks have the same commercial impression.

Further, applicant's "entertainment in the nature of live performances by various make-believe characters" is related to the registrant's "educational entertainment services, namely, live presentations of cartoon drawing featuring self-esteem, and distribution of written course materials in conjunction therewith" because both services would be encountered by consumers seeking entertainment in the nature of live performances by make-believe characters. Applicant's services are broad enough to include the registrant's "educational entertainment services." Further, applicant has identified the performers as "various make-believe characters." "Cartoon drawings" can be drawings of real people, but also be drawings of make-believe characters." Please see the attached definition of cartoon from <http://dictionary.reference.com>.

Since the marks are similar and the services in International Class 041 are arguably identical, there is a likelihood of confusion as to the source of the applicant's Class 041 services. Therefore, applicant's mark is not entitled to registration in International Class 041.

Accordingly, applicant's request for reconsideration is *denied in part*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark

Trial and Appeal Board (TTAB).

/mvaghani/  
Mayur Vaghani  
Trademark Examining Attorney  
Law Office 102  
Phone - (571) 272-1615  
Fax No. (571) 273-9102

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.



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Synonyms

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car-toon [kahr-toon] Show IPA

-noun

- a sketch or drawing, usually humorous, as in a newspaper or periodical, symbolizing, satirizing, or caricaturing some action, subject, or person of popular interest.
- COMIC STRIP.
- ANIMATED CARTOON.
- Fine Arts. a full-scale design for a picture, ornamental motif or pattern, or the like, to be transferred to a fresco, tapestry, etc.

-adjective

- resembling a cartoon or caricature: *The novel is full of predictable, cartoon characters, never believable as real people.*

-verb (used with object)

- to represent by a cartoon.

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v. to represent by a cartoon.

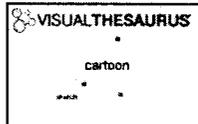
**-verb (used without object)**  
7. to draw cartoons.

**Origin:**  
1665-75; < It *cartone* pasteboard, stout paper, a drawing on such paper, equiv. to *cart(a)* paper (see *CARTE*) + *-one* aug. suffix

**Related forms:**  
*car*toonish, *adjective*  
*car*toonist, *noun*

Dictionary.com Unabridged  
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**Related Words for : cartoon**  
sketch, animated cartoon  
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**car-toon** (k r-t on) [?]

- n.
  1.
    - a. A drawing depicting a humorous situation, often accompanied by a caption.
    - b. A drawing representing current public figures or issues symbolically and often satirically; a *political cartoon*.
  2. A preliminary sketch similar in size to the work, such as a fresco, that is to be copied from it.
  3. An animated cartoon.
  4. A comic strip.
  5. A ridiculously oversimplified or stereotypical representation: *criticized the actor's portrayal of Jefferson as a historically inaccurate cartoon.*
- v. **car-tooned, car-toon-ing, car-toons**
  - v. *tr.*  
To draw a humorous or satirical representation of; caricature.
  - v. *intr.*  
To make humorous or satirical drawings.

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To make humorous or satirical drawings.

[French *carton*, *drawing*, from Italian *cartone*, *pasteboard*; see **carton**.]

**car-toon'ish**, **car-toon'y** *adj.*, **car-toon'ist** *n.*

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### Cartoon

Car\*toon<sup>n</sup>, *n.* [F. *carton* (cf. It. *cartone* *pasteboard*, *cartoon*); fr. L. *charta*. See 1st **card**.]

1. A design or study drawn of the full size, to serve as a model for transferring or copying; -- used in the making of mosaics, tapestries, fresco paintings and the like; as, the cartoons of Raphael.

2. A large pictorial sketch, as in a journal or magazine; esp. a pictorial caricature; as, the cartoons of "Puck."

Webster's Revised Unabridged Dictionary. © 1995, 1998 NCR. Inc.  
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#### Language Translation for : **cartoon**

Spanish: **tira cómica**, **viñeta**, **caricatura**, German: **die Karikatur**,  
Japanese: **漫画**

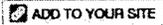
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### cartoon

1671, from Fr. *carton*, from It. *cartone* "strong, heavy paper, pasteboard," thus "preliminary sketches made by artists on such paper," augmentive of M.L. *carta* "paper" (see **card** (n.)). Extension to comical drawings in newspapers and magazines is 1843. Cartoonist first recorded 1880.

"Punch has the benevolence to announce, that in an early number of his ensuing volume he will astonish the Parliamentary Committee by the publication of several exquisite designs, to be called Punch's Cartoons!" ["Punch," June 24, 1843]

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Definition: (adjective) likely to change.

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**shop**  (shōp) KEY

### NOUN:

1. also **shoppe** A small retail store or a specialty department in a large store.
2. An atelier; a studio.
3. A place for manufacturing or repairing goods or machinery.
4. A commercial or industrial establishment: a *printing shop*.
5. A business establishment; an office or a center of activity.
6. A home workshop.

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7.

- a. A schoolroom fitted with machinery and tools for instruction in industrial arts.
- b. The industrial arts as a technical science or course of study.

**VERB:**

**shopped** , **shop-ping** , **shops**

**VERB:**

**intr.**

1. To visit stores in search of merchandise or bargains.
2. To look for something with the intention of acquiring it.

**VERB:**

**tr.**

To visit or buy from (a particular store).

**PHRASAL VERB:**

**shop around**

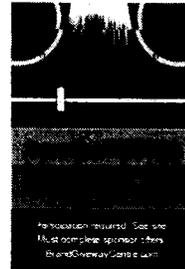
1. To go from store to store in search of merchandise or bargains.
2. To look for something, such as a better job.
3. To offer (a large block of common stock, for example) for sale to various parties: "[The company] is now actively being shopped around, with a prospectus in circulation" (*Marianne Yen*).

**IDIOM:**

**talk shop**

To talk about one's work.

**ETYMOLOGY:**



**ETIMOLOGICAL**

Middle English *shoppe*, from Old English *sceoppa*, *treasure house*

Thesaurus: synonyms for shop

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**workshop** (wŭrk' shŏp) **KEY**

### NOUN:

1. A room, area, or small establishment where manual or light industrial work is done.
2. An educational seminar or series of meetings emphasizing interaction and exchange of information among a usually small number of participants: *a creative writing workshop.*

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